

Appl. No. : 10/616,163
Filed : July 9, 2003

REMARKS

No amendment has been made herein. Applicant respectfully requests reconsideration of the application in view of the following remarks.

Rejection of Claims 2 and 3 Under 35 U.S.C. § 103

Claims 1, 2, and 4-27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Goundar (US 2004/0161535) in view of Xia (US 2002/0142578).

However, Goundar shall not preclude patentability under 35 U.S.C. § 103 as explained below.

Pursuant to 35 U.S.C. § 103(c), Goundar shall not preclude patentability under 35 U.S.C. § 103 where the subject matter and the claimed invention disclosed in the present application were, at the time the claimed invention was made, subject to an obligation of assignment to the same person.

The application number of Goundar is 10/414,467 and the application has been assigned to ASM JAPAN K.K. at Reel/Frame: 014483/0472. As shown in the Declaration in Support of Application of 35 U.S.C. § 1034(c) enclosed herewith, the subject matter and the claimed invention disclosed in Goundar were, at the time the claimed invention was made, subject to an obligation of assignment to the assignee.

The present application has been assigned to the same assignee, ASM JAPAN K.K., at Reel/Frame: 014284/0222. Also, as shown in the Declaration in Support of Application of 35 U.S.C. § 1034(c) enclosed herewith, the subject matter and the claimed invention disclosed in the present application were, at the time the claimed invention was made, subject to an obligation of assignment to the same assignee.

Thus, pursuant to 35 U.S.C. § 103(c), Goundar shall not preclude patentability under 35 U.S.C. § 103. Without the primary reference, Goundar, this rejection cannot be maintained. Applicant respectfully requests withdrawal of this rejection.

Double Patenting

Claims 1-2 and 4-27 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending

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Application No. 10/414,467. The copending Application is the same as Goundar discussed above. Although Applicant traverses the rejection, a Terminal Disclaimer To Obviate A Provisional Double Patenting Rejection Over A Pending "Reference" Application is enclosed herewith solely in order to expedite prosecution of the present application. Applicant respectfully requests withdrawal of this rejection.

CONCLUSION

In light of the Applicant's amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: October 18, 2005

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